

ORIGINAL  
FILED

2008 JUL 21 P 3 33

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

E-filing

1 MILBERG LLP  
 JEFF S. WESTERMAN (SBN 94559)  
 2 One California Plaza  
 300 S. Grand Ave., Suite 3900  
 3 Los Angeles, CA 90071-3172  
 Telephone: (213) 617-1200  
 4 Facsimile: (213) 617-1975  
 Email: jwesterman@milberg.com  
 5

6 MILBERG LLP  
 PETER SAFIRSTEIN (*pro hac vice* admission  
 to be submitted)  
 ANDREW MORGANTI (*pro hac vice*  
 admission to be submitted)  
 One Pennsylvania Plaza, 49th Floor  
 New York, NY 10119  
 Telephone: (212) 594-5300  
 Facsimile: (212) 868-1229  
 Email: psafirstein@milberg.com  
 amorganti@milberg.com

ADEMIL & O'REILLY, LLP  
 GURI ADEMIL (*pro hac vice* admission to be  
 submitted)  
 SHPETIM ADEMIL (*pro hac vice* admission to  
 be submitted)  
 3620 Layton Avenue  
 Cudahay, WI 53100  
 Telephone (414) 482-8000  
 Facsimile: (414) 482-8001  
 Email: gademil@gademilaw.com  
 sademil@gademilaw.com

12 Counsel for Plaintiffs and  
 13 the Proposed Indirect Purchaser Class

## 14 UNITED STATES DISTRICT COURT

## 15 NORTHERN DISTRICT OF CALIFORNIA

16 JAMES E. ALLEE, KORY PENTLAND )  
 and SIM BROWN on behalf of themselves )  
 17 and others similarly situated, )

18 vs. ) Plaintiffs.  
 19 )

20 MATSUSHITA ELECTRIC INDUSTRIAL, )  
 CO., LTD.; TOSHIBA CORPORATION; )  
 21 TOSHIBA AMERICA, INC.; MT )  
 PICTURE DISPLAY CO., LTD.; )  
 22 SAMSUNG SDI CO., LTD.; LP )  
 DISPLAYS INTERNATIONAL, LTD.; )  
 23 ROYAL PHILIPS ELECTRONICS, N.V.; )  
 and CHUNGHWA PICTURE TUBES, )  
 LTD.. and DOES 1-20, inclusive. )

24 )  
 25 Defendants. )  
 26 \_\_\_\_\_

27 CLASS ACTION COMPLAINT  
 28

DOCS-440340

08 3493 EDL

FAXED

## I. INTRODUCTION

2       1. Plaintiffs James E. Allee, Kory Pentland and Jim Brown bring this action for  
3 damages and injunctive relief under state and federal antitrust laws and common law claims on  
4 behalf of themselves individually and on behalf of all persons and entities who indirectly  
5 purchased products containing cathode ray tubes (“CRT Products” or “CRTs”) in the United  
6 States from one or more named Defendants between May 1, 1998, and the present (the “Class  
7 Period”). Defendants are the leading manufacturers of televisions, computer monitors, and other  
8 electronic devices containing CRTs. Defendants control the majority of the CRT Product  
9 industry, a multibillion dollar market, which in 1999 alone generated over \$19 billion dollars in  
10 gross revenue. During the Class Period, virtually every household in the United States owns, or  
11 has owned, at least one CRT Product.

12        2. Since the mid-1990's, the CRT industry faced significant economic pressures as  
13 customer preferences for other emerging technologies shrank profits and threatened the  
14 sustainability of the industry. Plaintiffs are informed and believe, and thereon allege, that in  
15 order to maintain price stability, increase profitability, and extend the life of the CRT market,  
16 Defendants conspired, combined and contracted to fix, raise, maintain, and stabilize the price at  
17 which CRT Products were sold in the United States. Plaintiffs are further informed and believe,  
18 and thereon allege, that Defendants fraudulently concealed their anticompetitive conduct from  
19 Plaintiffs and the Class in furtherance of the conspiracy. As a result of Defendants' unlawful  
20 conduct, Plaintiffs and the other members of the Class paid artificially inflated prices for CRT  
21 Products during the Class Period. Such prices exceeded the amount they would have paid if the  
22 price for CRT Products had been determined by a competitive market.

## **II. JURISDICTION AND VENUE**

24       3. This action is instituted under Section 16 of the Clayton Act, 15 U.S.C. § 26, to  
25 obtain injunctive relief for violations of Section 1 of the Sherman Act, 15 U.S.C. § 1, to recover  
26 damages under state antitrust laws, and to recover costs of suit, including reasonable attorneys'

1 fees, for the injuries that Plaintiffs and all others similarly situated sustained as a result of  
2 Defendants' violations of those laws.

3       4. The Court has subject matter jurisdiction over the federal claim under 28 U.S.C.  
4 §§ 1331 and 1337. The Court has subject matter jurisdiction over the state law claims under 28  
5 U.S.C. § 1367 because those claims are so related to the federal claim that they form part of the  
6 same case or controversy.

7       5. This court also has subject matter jurisdiction over this class action pursuant to  
8 the Class Action Fairness Act of 2005, which amended 28 U.S.C. § 1332 to add a new  
9 subsection (d) conferring federal jurisdiction over class actions where, as here, any member of a  
10 class of plaintiffs is a citizen of a state different from any defendant and the aggregated amount  
11 in controversy exceeds \$5,000,000, exclusive of interest and costs. This Court also has  
12 jurisdiction under 28 U.S.C. § 1332(d) because one or more members of the class is a citizen of a  
13 state within the United States and one or more of the Defendants is a citizen or subject of a  
14 foreign state.

15       6.     Venue is laid in this District pursuant to 28 U.S.C. § 1391.   Venue is proper in  
16 this judicial district because during the Class Period one or more of the Defendants resided,  
17 transacted business, was found, or had agents in this district, and, because a substantial part of  
18 the events giving rise to Plaintiffs' claims occurred in this district, and a substantial portion of  
19 the affected portion of the interstate trade and commerce described below has been carried out in  
20 this district.

### III. DEFINITIONS

22        7. As used herein, the term "CRT Products" means cathode ray tubes and products  
23 containing cathode ray tubes, including television sets and computer monitors.

24        8.      The “Class Period” or “relevant period” means the period beginning at least May  
25      1, 1998, through the present.

26        9.      "Person" means any individual, partnership, corporation, association, or other  
27 business or legal entity.

1       10. The “Indirect Purchaser States” are Arizona, California, District of Columbia,  
2 Iowa, Kansas, Maine, Michigan, Minnesota, Mississippi, Nebraska, Nevada, New Mexico, North  
3 Carolina, North Dakota, South Dakota, Tennessee, Vermont, West Virginia, and Wisconsin.

## **IV. PARTIES**

#### A. Plaintiffs

6       11. Plaintiff James E. Allee (“Allee”) is a resident of the City of Waukesha in the  
7 State of Wisconsin. During the relevant period, Allee indirectly purchased CRT Products  
8 manufactured and/or distributed by one or more of the Defendants or their co-conspirators during  
9 the Class Period and has been injured by reason of the antitrust violations alleged in the  
10 Complaint.

11       12. Plaintiff Kory Pentland (“Pentland”) is a resident of the City of Grand Rapids in  
12 the State of Michigan. During the relevant period, Pentland indirectly purchased CRT Products  
13 manufactured and/or distributed by one or more of the Defendants or their co-conspirators during  
14 the Class Period and has been injured by reason of the antitrust violations alleged in the  
15 Complaint.

16           13. Plaintiff Jim Brown (“Brown”) is a resident of the City of Belleville in the State  
17 of Michigan. During the relevant period, Brown indirectly purchased CRT Products  
18 manufactured and/or distributed by one or more of the Defendants or their co-conspirators during  
19 the Class Period and has been injured by reason of the antitrust violations alleged in the  
20 Complaint.

## **B. Defendants**

22           14. Defendant Matsushita Electric Industrial Co., Ltd. (“Matsushita”) (n/k/a  
23 Panasonic Corporation of North America, based in Secaucus, New Jersey) is a business entity  
24 organized under the laws of Japan, with its principal place of business at 1006, Oaza Kadoma,  
25 Kadoma City, Osaka 571-8501, Japan. During the Class Period, Matsushita’s CRT Products  
26 were either manufactured, sold or distributed throughout the United States, including under the  
27 brand names Panasonic and JVC.

1       15. Defendant Toshiba Corporation is a business entity organized under the laws of  
 2 Japan, with its principal place of business at 1-1, Shibaura 1-chome, Minato-ku, Tokyo 105-  
 3 8001, Japan. During the Class Period, Toshiba Corporation's CRT Products were either  
 4 manufactured, sold or distributed throughout the United States.

5       16. Defendant Toshiba America, Inc. ("Toshiba America") is a wholly owned and  
 6 controlled subsidiary of Defendant Toshiba Corporation. Toshiba America is a business entity  
 7 organized under the laws of New York, with its principal place of business at 1251 Avenue of  
 8 the Americas, Suite 4110, New York, New York, 10020. During the Class Period, Toshiba  
 9 America's CRT Products were either manufactured, sold or distributed throughout the United  
 10 States.

11       17. Defendants Toshiba Corporation and America, Inc. are referred to collectively  
 12 herein as "Toshiba."

13       18. Upon information and belief, defendant MT Picture Display Co., Ltd. ("MT  
 14 Picture Display") is a joint venture between Defendants Matsushita and Toshiba; is a business  
 15 entity organized under the laws of Japan, with its principal place of business at 1-1, Saiwai-cho,  
 16 Takatsuki City 569-1193, Osaka, Japan; and during the Class Period, MT Picture Display's CRT  
 17 Products were either manufactured, sold or distributed throughout the United States.

18       19. Defendant Samsung SDI Co. Ltd. ("Samsung SDI") is a business entity organized  
 19 under the laws of South Korea, with its principal place of business at 575, Shin-Dong  
 20 Yeongtong-Gu, Suwon-Si, Kyeonggi-Do, 442-390, South Korea. During the Class Period,  
 21 Samsung SDI's CRT Products were either manufactured, sold or distributed throughout the  
 22 United States.

23       20. Defendant LP Displays International, Ltd. ("LP Displays") is a business entity  
 24 organized under the laws of Hong Kong, with its principal place of business at 6th Floor, ING  
 25 Tower, 308 Des Voeux Road Central, Sheung Wan, Hong Kong, China. During the Class  
 26 Period, LP Displays' CRT Products were either manufactured, sold or distributed throughout the  
 27 United States.

1        21. Defendant Royal Philips Electronics N.V. (“Royal Philips”) is a business entity  
2 organized under the laws of the Netherlands, with its principal place of business at Breitner  
3 Center, Amstelplein 2, 1096 BC Amsterdam, The Netherlands. During the Class Period, Royal  
4 Philips’ CRT Products were either manufactured, sold or distributed throughout the United  
5 States.

6        22.      Defendant Chunghwa Picture Tubes, Ltd. (“Chunghwa”) is a business entity  
7 organized under the laws of Taiwan, with its principal place of business at No. 1127 Heping  
8 Road, Padeh City, Taoyuan, Taiwan, 334 (R.O.C.). During the Class Period, Chunghwa’s CRT  
9 Products were either manufactured, sold or distributed throughout the United States.

10       23. The true names and capacities of defendants DOES 1-20 are unknown to  
11 Plaintiffs. Each of such fictitiously named defendants has participated or acted in concert or in  
12 furtherance of the violations alleged herein and has performed acts and made statements in  
13 furtherance thereof. When and if Plaintiffs learn the identity of such persons, Plaintiffs will  
14 amend this Complaint to show such Defendant's true name and capacity.

## V. DEFENDANTS AND CO-CONSPIRATORS

16       24. Various other persons, firms and corporations, not named as Defendants herein,  
17 and presently unknown to Plaintiffs, have participated as co-conspirators with Defendants and  
18 have performed acts and made statements in furtherance of the conspiracy and/or in furtherance  
19 of the anticompetitive or unfair conduct.

20        25. Whenever in this Complaint reference is made to any act, deed or transaction of  
21 any corporation, the allegation means that the corporation engaged in the act, deed or transaction  
22 by or through its officers, directors, agents, employees or representatives while they were  
23 actively engaged in the management, direction, control or transaction of the corporation's  
24 business or affairs.

25        26. Each of the Defendants named herein acted as the agent or joint venturer of or for  
26 the other Defendants with respect to the acts, violations, and common course of conduct alleged

1 herein. Each Defendant, which is a subsidiary of a foreign parent, acts as the sole United States  
2 agent for CRT Products made by its parent company.

3 **VI. INTERSTATE TRADE AND COMMERCE**

4 27. Throughout the Class Period, there was a continuous and uninterrupted flow of  
5 CRT Product sales in interstate and international commerce throughout the United States.

6 28. Defendants' unlawful activities, as described herein, took place within the flow of  
7 interstate commerce to CRT Product purchasers located in states other than the states in which  
8 Defendants are located, as well as throughout the world, and had a direct, substantial, and  
9 reasonably foreseeable effect upon interstate and international commerce, including the United  
10 States CRT Products market.

11 **VII. CLASS ACTION ALLEGATIONS**

12 29. Plaintiffs bring this action on behalf of themselves and as a class action pursuant  
13 to the provisions of Rule 23 of the Federal Rules of Civil Procedure on behalf of all members of  
14 the following class (the "Nationwide Class"):

15 All persons and or entities residing in the United States who or which indirectly  
16 purchased CRT Products in the United States for their own use and not for resale,  
17 at any time during the period from May 1, 1998 through the present. Specifically  
18 excluded from this Class are Defendants; the officers, directors or employees of  
19 any Defendant; any entity in which any Defendant has a controlling interest; and,  
any affiliate legal representative, heir or assign of any Defendant. Also excluded  
are any federal, state or local government entities, any judicial officer presiding  
over this action and the members of his/her immediate family and judicial staff,  
and any juror assigned to this action.

20 30. Plaintiffs also bring this action on behalf of themselves and as a class action  
21 pursuant to the provisions of Rule 23 of the Federal Rules of Civil Procedure and/or respective  
22 state statutes(s), on behalf of all members of the following State classes or subclasses  
23 (collectively "Indirect Purchaser State Classes"): Arizona, California, District of Columbia,  
24 Iowa, Kansas, Maine, Michigan, Minnesota, Mississippi, Nebraska, Nevada, New Mexico, North  
25 Carolina, North Dakota, South Dakota, Tennessee, Vermont, West Virginia, and Wisconsin.

26 31. This action has been brought and may properly be maintained as a class action  
27 pursuant to Rule 23 of the Federal Rules of Civil Procedure for the following reasons:  
28

1                         (a)     The Classes are ascertainable and there is a well-defined community of  
2 interest among members of the Classes;

3                         (b)     Based upon the nature of trade and commerce involved and the number of  
4 indirect purchasers of CRT Products, Plaintiffs believe that the number of Class members is very  
5 large, and therefore joinder, of all Class members is not practicable;

6                         (c)     Plaintiffs' claims are typical of Class members' claims because Plaintiffs  
7 indirectly purchased CRT Products manufactured by Defendants or their co-conspirators, and  
8 therefore Plaintiffs' claims arise from the same common course of conduct giving rise to the  
9 claims of Class members and the relief sought is common to the Classes;

10                       (d)     The following common questions of law or fact, among others, exist as to  
11 the members of the Classes:

12                       (i)     Whether Defendants formed and operated a combination or  
13 conspiracy to fix, raise, maintain, or stabilize the prices of CRT Products;

14                       (ii)    Whether the combination or conspiracy caused the price of CRT  
15 Products to be higher than they would have been in the absence of Defendants' conduct;

16                       (iii)   The operative time period of Defendants' combination or  
17 conspiracy;

18                       (iv)    Whether Defendants' conduct caused injury to the business or  
19 property of Plaintiffs and the members of the Classes;

20                       (v)     The appropriate measure of the amount of damages suffered by the  
21 Classes;

22                       (vi)    Whether Defendants' conduct violates Section 1 of the Sherman  
23 Act (15 U.S.C. § 1) as alleged in the First Claim for Relief;

24                       (vii)   Whether Defendants' conduct violates the Indirect Purchaser  
25 States' antitrust laws as alleged in the Second Claim for Relief; and

26                       (viii)   The appropriate nature of class-wide equitable relief.

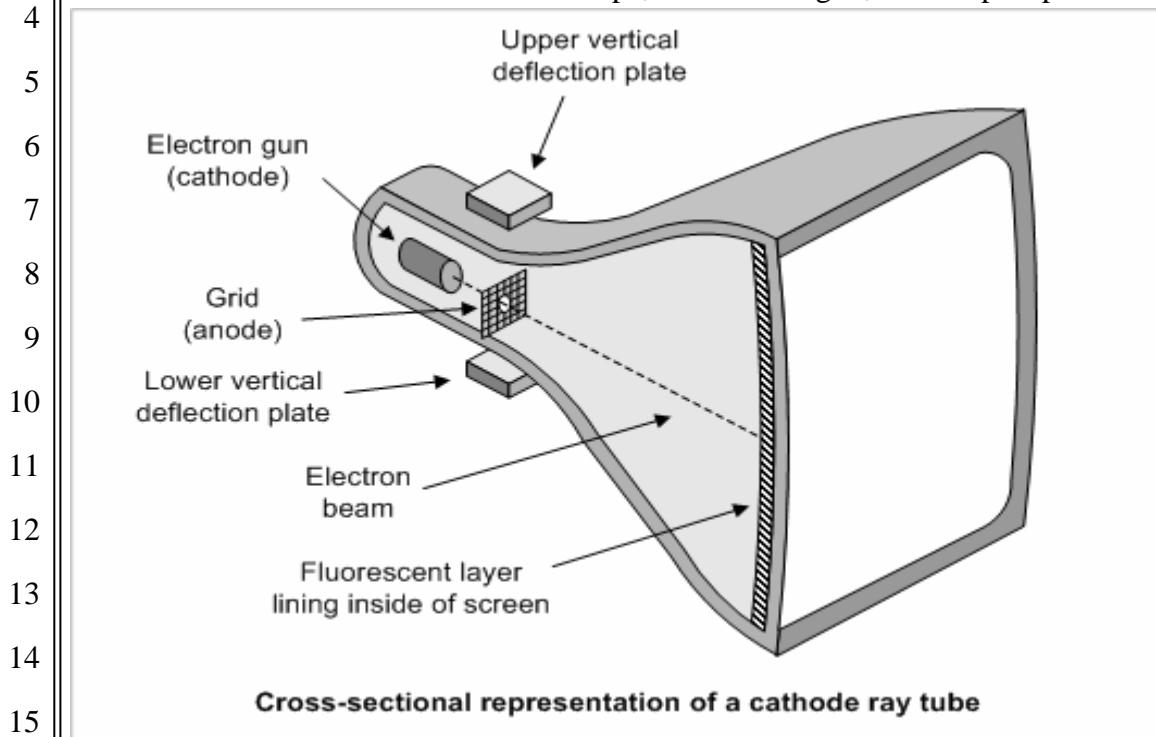
4 (f) After determination of the predominant common issues identified above, if  
5 necessary or appropriate, the Classes can be divided into logical and manageable subclasses;

6 (g) Plaintiffs will fairly and adequately protect the interests of the Classes in  
7 that Plaintiffs have no interests that are antagonistic to other members of the Classes and have  
8 retained counsel competent and experienced in the prosecution of class actions and antitrust  
9 litigation to represent them and the Classes;

## VIII. FACTUAL ALLEGATIONS

### A. The Relevant Product Market

32. CRT technology has been in use for more than 100 years. The basic cathode ray tube consists of three elements: the envelope, the electron gun, and the phosphor screen.



Source: <http://www.diycalculator.com/sp-console.shtml>

33. CRTs are manufactured in several standard sizes including 17 inch, 19 inch, 27 inch and 32 inch. CRTs manufactured by Defendants are interchangeable with one another.

34. The worldwide market for CRT Products is and has been large. In 1997, the worldwide CRTs market exceeded \$24 billion in sales.

35. At the beginning of the Class Period, CRTs were the dominant display technology worldwide. For example, in 1997, 99.3% of all computer monitors sold worldwide contained CRTs. In 2005, approximately 47 million CRT monitors were sold worldwide, and approximately 20.3% of these were sold in the United States.

36. Although the value of all display materials shipped worldwide is projected to rise at an average annual growth rate of 12.8% by 2010, worldwide demand for CRT Products is

1 declining overall because of the growing popularity of newer technologies (*e.g.*, FPD products)  
 2 which are being used in place of CRT Products.

3       37. FPD Products may be used to produce the same image as CRT Products, but also  
 4 have many important advantages over CRT Products. For example, FPD products are less bulky,  
 5 lighter, require less energy, are easier to read, and do not flicker.

6 **B. Oligopolistic Nature of the CRT Industry**

7       38. During the Class Period, the CRT industry has been dominated by relatively few  
 8 companies. In 2002 for example, three companies — defendants LP Displays (formerly known  
 9 as LG.Philips Displays), Samsung, and Chunghwa — controlled approximately 62% of the CRT  
 10 market. In addition to these three companies, other named Defendants formed a substantial  
 11 portion of the remaining CRT market.

Company	Share
LG.Philips Displays	27%
Samsung SDI	24%
Chunghwa Picture Tubes	11%
Japanese Producers <sup>1</sup>	15%
Other	23%

16       Source: The Electronic Times, compiled by DigiTimes, June 2002

17       39. The CRT industry also had significant consolidation during the Class Period,  
 18 including but not limited to: (a) the creation of LG.Philips Displays in 2001, which was a joint  
 19 venture between Philips and LG Electronics' CRT businesses; (b) the 2002 merger of Toshiba  
 20 and Matsushita into Matsushita-Toshiba; and (c) Orion's agreement to manufacture CRT  
 21 Products for Toshiba, which effectively took Toshiba's capacity out of the market.

22       40. This concentration of market share facilitated Defendants' ability to implement  
 23 the conspiracy. Involvement in long-standing joint ventures, both in the CRT market and closely  
 24 related markets, also gave these supposed competitors continuous opportunities to discuss  
 25 pricing, capacity utilization, and other important prospective market information. The mutually

---

27       <sup>1</sup> "Japanese Producers" includes defendants Hitachi and Toshiba.

1 beneficial nature of the business relations between certain Defendants not only provided the  
 2 opportunity to conspire, it also created a financial incentive to do so.

3       41.     The CRT product industry is characterized by a number of structural features that  
 4 facilitate collusion, including market concentration, the consolidation of manufacturers, multiple  
 5 interrelated business relationships, significant barriers to entry and interchangeability of  
 6 products.

7       42.     Defendant Samsung SDI has the largest market share of any CRT Products  
 8 manufacturer. In 2000, Defendant Samsung SDI had 18% of the global CRTs market. In 2002,  
 9 Samsung SDI had 21.8% of the global market for CRT monitors. In 2004, Samsung SDI had a  
 10 30% share of the global CRTs market.

11       43.     Defendant LP Displays (formerly LG.Philips Displays) has the second largest  
 12 share of the CRT market. In 2004, LG.Philips Displays held 27% of the global market for CRT.

13       44.     Defendant MT Picture Display (formerly Matsushita Toshiba Display Co.) is also  
 14 a major player in the CRT market. In 2004, Matsushita Toshiba Picture Display Co. held 9% of  
 15 the global market for CRTs.

16       45.     Defendant Chunghwa Picture Tubes held 21.7% of the global CRT market in  
 17 1999.

18       46.     In 2004, Defendants Samsung SDI, LP Displays, MT Picture Display, and  
 19 Chunghwa Picture Tubes maintained a collective 78% of the global CRT market.

20       47.     The CRT Products market has also been subject to substantial consolidation and  
 21 multiple interrelated business relationships during the Class Period. Matsushita Electric  
 22 Industrial Co. Ltd. and Toshiba Corporation combined to form Defendant MT Picture Display  
 23 Company. Before the combination of MT Picture Display Company, Matsushita and Toshiba  
 24 had been the fourth and sixth largest CRT manufacturers in the world. This joint venture  
 25 combined the entire CRT operations of both parent companies. MT Picture Display  
 26 Company specialized in the manufacture of CRTs above 30 inches, supplying some  
 27 950,000 units annually to the North American market.

28

CLASS ACTION COMPLAINT	-11-
------------------------	------

1       48.     In 2005, Samsung SDI and LG Philips Displays entered into an agreement to  
 2 share parts with respect to CRTs in an effort to boost their combined market share.

3       49.     Defendants sell their CRT Products through various channels, including to  
 4 manufacturers of electronic products and devices, and to resellers of CRT Products. These  
 5 electronic products and devices and CRT Products are then sold, directly or indirectly, to  
 6 consumers and are not altered during the course of sale.

7                   **IX. DEFENDANTS' ALLEGED ANTICOMPETITIVE CONDUCT**

8       50.     During the Class Period, Plaintiffs are informed and believe, while demand for  
 9 CRT Products fell in the United States, Defendants' conspiracy was effective in moderating the  
 10 normal downward pressures on prices for CRT Products caused by the entry of the new  
 11 generation of competing technologies.

12      51.     During the Class Period, there were not only periods of unnatural and sustained  
 13 price stability, but there were also inexplicable increases in the prices of CRTs, despite  
 14 declining demand due to approaching obsolescence of CRTs caused by the emergence of a new,  
 15 superior, substitutable technology.

16      52.     These periods of price stability and price increases for CRTs are fundamentally  
 17 inconsistent with a competitive market for a product where demand is rapidly decreasing  
 18 because of the introduction of new superior technologies.

19      53.     The aforesaid contract, combination or conspiracy consisted of a continuing  
 20 combination, agreement, understanding, and concert of action among the Defendants and co-  
 21 conspirators, the substantial terms of which were to fix, raise, maintain and stabilize the price of  
 22 CRT Products.

23      54.     Defendants have a collective interest to fix, maintain, or otherwise stabilize the  
 24 prices of CRT Products in order to maximize their profit by depriving free and open competition  
 25 in the CRT Products industry.

26      55.     Upon information and belief, Defendants and their co-conspirators have engaged  
 27 in a contract, combination, trust or conspiracy, the effect of which was to raise the prices at

1 which they sold CRT Products to artificially inflated levels from at least May 1, 1998, through  
2 the present.

## X. GLOBAL ANTITRUST REGULATORS PROBE THE CRT PRODUCT INDUSTRY

56. Since late 2007, antitrust enforcement authorities in multiple countries have begun investigating the CRT industry for possible antitrust violations.

57. On November 8, 2007, the European Commission stated in a press release:

The European Commission can confirm that on 8th November 2007 Commission officials carried out unannounced inspections at the premises of manufacturers of cathode ray tubes (CRTs). Cathode ray tubes are used in television sets and computer monitors. The Commission has reason to believe that the companies concerned may have violated EC Treaty rules on cartels and restrictive business practices (Article 81).

The Commission officials were accompanied by their counterparts from the relevant national competition authorities.

Surprise inspections are a preliminary step in investigations into suspected cartels.

58. Also on November 9, 2007, the Associated Press news agency reported the following:

Japan's antitrust officials searched a subsidiary of Matsushita Electric Industrial Co. on suspicion of forming an international cartel to fix prices for cathode-ray tubes for television, an official and media reports said Friday.

MT Picture Display Co., a 100 percent subsidiary of Matsushita, is suspected of fixing prices for CRTs with other manufacturers in South Korea, Taiwan and Hong Kong, Japanese business daily Nikkei reported Friday.

Antitrust officials in Japan, South Korea, the United States and the European Union have begun investigations, the paper said....

\* \* \*

Japan's Fair Trade Commission conducted an on-sight inspection of MT Picture Display Thursday, said Akira Kadota, a spokesman for Matsushita, the Osaka-based maker of Panasonic-brand products.

\* \* \*

Nikkei said the companies including South Korea's Samsung SDI are suspected of forming a cartel around 2005 to keep the price of CRTs from falling, citing unnamed officials.

1           59. On November 8, 2007, the Bloomberg news agency further reported the  
2 following:

Japanese and European Union antitrust authorities carried out raids at companies in the cathode-ray tube industry as part of a price-fixing investigation.... Japan's Fair Trade Commission also began a probe of a joint venture between Matsushita Electric Industrial Co. and Toshiba Corp., Munetsugu Takeda, a spokesman for Matsushita, said by telephone.

\* \* \*

Cathode-ray tubes are used in television sets and computer monitors. Matsushita and Toshiba merged their cathode-ray tube units to form Matsushita Toshiba Picture Display Co. in 2003. The companies said at the time that the joint venture was the world's third-largest maker of television tubes.

1       60. On November 9, 2007, the Agence France-Presse (“AFP”) news agency reported  
2 the following:

South Korea's anti-trust watchdog has launched a probe into Samsung SDI as part of an international investigation into alleged price-fixing, officials said Friday.

The Fair Trade Commission is investigating allegations that Samsung SDI colluded with foreign rivals to fix the prices of cathode ray tubes (CRTs) for television.

'It is part of an international probe into alleged price-fixing this week. We are cooperating with the Fair Trade Commission,' a Samsung SDI spokesman told AFP.

9       61. On November 12, 2007, Defendant Chunghwa announced, via a filing with the  
10 Taiwan Stock Exchange, that it received a summons from the United States Department of  
11 Justice relating to a CRT antitrust price-fixing investigation.

22       62. On November 16, 2007, BNA's *Antitrust & Trade Regulation* reported that "Since  
23 2005, [Japan Fair Trade Commission] sources alleged, MT Picture Display held 'tea parties'  
24 with Samsung and other manufacturers and exchanged information on picture tube prices in Asia  
25 and Europe."

63. On November 21, 2007, Philips issued a press release and stated the following:

Competition law authorities in several jurisdictions have commenced investigations into possible anticompetitive activities in the Cathode-Ray Tubes, or CRT, industry. Royal Philips Electronics (NYSE:PHG, AEX: PHI) today

1 announced that, as one of the companies that was active in the CRT business, it is  
2 subject to one or more of these ongoing investigations.

3 64. Defendants, through their officers, directors and employees, effectuated the  
4 aforesaid contract, combination, trust or conspiracy between themselves and their co-  
5 conspirators by, among other things:

6 (a) participating in meetings and conversations, including through various  
7 trade associations and committees, to discuss the prices of products containing CRTs in the  
United States;

8 (b) agreeing, during those meetings and conversations, to charge prices at  
9 specified levels and otherwise to increase and maintain prices of products containing CRTs sold  
10 in the United States;

11 (c) issuing price announcements and quotations in accordance with the  
12 agreements reached; and

13 (d) selling products containing CRTs to various customers in the United  
14 States at non-competitive prices.

15 65. The aforesaid combination and conspiracy has had the following effects, among  
16 others:

17 (a) price competition in the CRT industry has been suppressed, restrained and  
18 eliminated;

19 (b) the prices of CRT Products have been raised, fixed, maintained and  
20 stabilized at artificial and non-competitive levels; and

21 (c) consumers of CRT Products were deprived of free and open competition  
22 in the CRT market.

23 **XI. INJURY TO PLAINTIFFS AND MEMBERS OF THE CLASS**

24 66. During the period, covered inflated prices for CRT Products were passed-on to  
25 Plaintiffs and the other members of the Class. By reason of the alleged violations of the antitrust  
26 laws, Plaintiffs and the other members of the Class paid higher prices for CRT Products than  
27 they would have paid in the absence of the illegal contract, combination or conspiracy, and, as a  
28

1 result, have been injured in their business and have suffered damages in an amount presently  
2 undetermined.

3       67. The specific amounts of damages have not yet been determined because such  
4 determination will require discovery.

#### A. Effects of Defendants' Antitrust Violations

6        68. The above combination and conspiracy has had the following effects, among  
7 others:

10 (b) Prices for CRT Products sold by Defendants has been raised, fixed,  
11 maintained and stabilized at artificially high and noncompetitive levels throughout the United  
12 States; and

13 (c) Indirect purchasers of CRT Products from Defendants have been deprived  
14 of the benefit of free and open competition in the purchase of CRT Products.

15        69. As a direct and proximate result of the unlawful conduct of Defendants, Plaintiffs  
16 and other members of the class(es) have been injured in their business and property in that they  
17 paid more for CRT Products than they otherwise would have paid in the absence of the unlawful  
18 conduct of Defendants.

## XII. VIOLATIONS ALLEGED

## **First Claim of Relief**

## **(Violation of Section 1 of the Sherman Act)**

22       70. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every  
23 allegation set forth in the preceding paragraphs of this Complaint.

24       71. Beginning at a time unknown to Plaintiffs, but at least as early as May 1, 1998,  
25 through the present, the exact dates being unknown to Plaintiffs and exclusively within the  
26 knowledge of Defendants, Defendants and their co-conspirators, entered into a continuing

1 agreement, understanding, and conspiracy to unreasonably restrain trade and commerce in the  
2 United States, in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

3 72. In particular, Defendants have combined and conspired to fix, raise, maintain or  
4 stabilize the prices of CRT Products sold in the United States.

5 73. Defendants, by their unlawful conspiracy, artificially raised, inflated, and  
6 maintained the market prices of CRT Products as herein alleged.

7 74. The contract, combination or conspiracy consisted of a continuing agreement,  
8 understanding and concert of action among Defendants and their co-conspirators, the substantial  
9 terms of which were to fix, raise, maintain and stabilize the prices of CRT Products they sold in  
10 the United States and elsewhere.

11 75. In formulating and carrying out the alleged agreement, understanding, and  
12 conspiracy, Defendants and their co-conspirators did those things that they combined and  
13 conspired to do, including, but not limited to the acts, practices, and course of conduct set forth  
14 above, and the following, among others:

15 (a) Participated in meetings and conversations to discuss the prices of CRT  
16 Products;

17 (b) Agreed to manipulate prices and the supply of CRT Products in a manner  
18 that deprived purchasers of CRT Products of free and open competition;

19 (c) Issued price announcements and price quotations in accordance with the  
20 agreements reached; and

21 (d) Sold CRT Products to customers in the United States at non-competitive  
22 prices.

23 76. The combination and conspiracy alleged herein has had the following effects,  
24 among others:

25 (a) Price competition in the sale of CRT Products has been restrained,  
26 suppressed and/or eliminated in the United States;

27

28

(c) Those who purchased CRT Products directly or indirectly from Defendants have been deprived the benefits of free and open competition.

6        77. As a direct result of the unlawful conduct of Defendants and their co-conspirators  
7 in furtherance of their continuing contract, combination or conspiracy, Plaintiffs and the  
8 members of the Nationwide Class have been injured and will continue to be injured in their  
9 business and property by paying more for CRT Products purchased indirectly from the  
10 Defendants and their co-conspirators than they would have paid and will pay in the absence of  
11 the combination and conspiracy.

12 78. These violations are continuing and will continue unless enjoined by this Court.

13        79. Pursuant to Section 16 of the Clayton Act, 15 U.S.C. § 26, Plaintiffs and the  
14 Nationwide Class seek the issuance of an injunction against Defendants, preventing and  
15 restraining the violations alleged herein.

## **Second Claim of Relief**

### **(Violation of State Antitrust Statutes)**

18       80. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every  
19 allegation set forth in the preceding paragraphs of this Complaint.

20        81. Defendants' intentional and purposeful anticompetitive acts that are described  
21 above, including but not limited to acts of collusion to set prices and the actual act of price fixing  
22 itself, were intended to and did in fact cause Plaintiffs and the members of the Indirect Purchaser  
23 State Classes to pay supracompetitive prices for CRT Products purchased in the Indirect  
24 Purchaser States.

25        82. Defendants' contract, combination, and conspiracy as described above is in  
26 violation of the following state antitrust statutes.

27

28

1       83. By reason of the foregoing, Defendants have entered into agreements in restraint  
2 of trade in violation of Arizona Revised Stat. §§ 44-1401 et seq.

3       84. By reason of the foregoing, Defendants have entered into agreements in restraint  
4 of trade in violation of California Business & Professions Code § 16720 et seq.

5       85. By reason of the foregoing, Defendants have entered into agreements in restraint  
6 of trade in violation of District of Columbia Code Ann. §§ 280-4503 et seq.

7       86. By reason of the foregoing, Defendants have entered into agreements in restraint  
8 of trade in violation of Iowa Code §§ 553.1 et seq.

9       87. By reason of the foregoing, Defendants have entered into agreements in restraint  
10 of trade in violation of Kansas Stat. Ann. §§ 50-101 et seq.

11       88. By reason of the foregoing, Defendants have entered into agreements in restraint  
12 of trade in violation of Maine Rev. Stat. Ann. 10 §§ 1101 et seq.

13       89. By reason of the foregoing, Defendants have entered into agreements in restraint  
14 of trade in violation of Michigan Comp. Laws Ann. §§ 445.773 et seq.

15       90. By reason of the foregoing, Defendants have entered into agreements in restraint  
16 of trade in violation of Minnesota Stat. §§ 325D.52 et seq.

17       91. By reason of the foregoing, Defendants have entered into agreements in restraint  
18 of trade in violation of Mississippi Code Ann. § 75-21-1 et seq.

19       92. By reason of the foregoing, Defendants have entered into agreements in restraint  
20 of trade in violation of Nebraska Rev. Stat. § 59-901 et seq.

21       93. By reason of the foregoing, Defendants have entered into agreements in restraint  
22 of trade in violation of Nevada Rev. Stat. Ann. §§ 598A et seq.

23       94. By reason of the foregoing, Defendants have entered into agreements in restraint  
24 of trade in violation of New Mexico Stat. Ann. §§ 57-1-1 et seq.

25       95. By reason of the foregoing, Defendants have entered into agreements in restraint  
26 of trade in violation of North Carolina Gen. Stat. §§ 75-1 et seq.

27

28

1       96. By reason of the foregoing, Defendants have entered into agreements in restraint  
2 of trade in violation of North Dakota Cent. Code §§ 51-08.1-01 et seq.

3       97. By reason of the foregoing, Defendants have entered into agreements in restraint  
4 of trade in violation of South Dakota Codified Laws Ann. §§ 37-1 et seq.

5        98. By reason of the foregoing, Defendants have entered into agreements in restraint  
6 of trade in violation of Tennessee Code Ann. §§ 47-25-101 et seq.

7        99. By reason of the foregoing, Defendants have entered into agreements in restraint  
8 of trade in violation of Vermont Stat. Ann. 9 §§ 2453 et seq.

9       100. By reason of the foregoing, Defendants have entered into agreements in restraint  
10 of trade in violation of West Virginia Code §§ 47-18-1 et seq.

11       101. By reason of the foregoing, Defendants have entered into agreements in restraint  
12 of trade in violation of Wisconsin Stat. §§ 133.01 et seq.

13        102. Class members in each of the states listed above paid supracompetitive,  
14 artificially inflated prices for CRT Products. As a direct and proximate result of Defendants'  
15 unlawful conduct, Plaintiffs and members of the Indirect Purchaser State Classes have been  
16 injured in their business and property in that they paid more for CRT Products than they  
17 otherwise would have paid in the absence of Defendants' unlawful conduct.

18           103. As a result of Defendants' and their co-conspirators' violation of the above  
19 Indirect Purchaser States' antitrust laws, Plaintiffs seek damages, to be trebled where permitted  
20 by a particular state's antitrust law, and costs of suit, including reasonable attorneys' fees, to the  
21 extent permitted by the above Indirect Purchaser States' antitrust laws.

### **Third Claim of Relief**

## (Unjust Enrichment and Disgorgement of Profits)

24       104. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every  
25 allegation set forth in the preceding paragraphs of this Complaint.

26        105. Defendants have been unjustly enriched through overpayments by Plaintiffs and  
27 the Class members and the resulting profits.

1       106. Under common law principles of unjust enrichment, Defendants should not be  
2 permitted to retain the benefits conferred via overpayments by Plaintiffs and the members of the  
3 Classes.

4 107. Plaintiffs seek disgorgement of all profits resulting from such overpayments and  
5 establishment of a constructive trust from which Plaintiffs and the Class members may seek  
6 restitution.

### XIII. FRAUDULENT CONCEALMENT

8        108. Throughout the relevant period, Defendants affirmatively and fraudulently  
9 concealed their unlawful conduct against Plaintiffs and the Class.

10       109. Plaintiffs and the members of the Class did not discover, and could not discover  
11 through the exercise of reasonable diligence, that Defendants were violating the antitrust laws as  
12 alleged herein until shortly before this litigation was commenced. Nor could Plaintiffs and the  
13 Class members have discovered the violations earlier than that time because Defendants  
14 conducted their conspiracy in secret, concealed the nature of their unlawful conduct and acts in  
15 furtherance thereof, and fraudulently concealed their activities through various other means and  
16 methods designed to avoid detection. The conspiracy was by its nature self-concealing.

17        110. Defendants engaged in a successful, illegal price-fixing conspiracy with respect to  
18 CRT Products, which they affirmatively concealed, in at least the following respects:

19                             (a) By agreeing among themselves not to discuss publicly, or otherwise  
20 reveal, the nature and substance of the acts and communications in furtherance of their illegal  
21 scheme; and

22 (b) By giving false and pretextual reasons for their CRT Product price  
23 increases during the relevant period and by describing such pricing falsely as being the result of  
24 external costs rather than collusion.

25        111. As a result of Defendants' fraudulent concealment of their conspiracy, Plaintiffs  
26 and the Class assert the tolling of any applicable statute of limitations affecting the rights of  
27 action of Plaintiffs and the members of the Classes.

1  
**XIV. PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiffs pray as follows:

3 A. That the Court determine that the claims alleged herein under the Sherman Act,  
4 state antitrust laws and/or unfair competition laws and common law, may be maintained as a  
5 class action under Rule 23 of the Federal Rules of Civil Procedure;

6 B. That the Court adjudge and decree that the unlawful conduct, contract,  
7 combination, and conspiracy alleged herein constitutes:

8 (a) A violation of the Sherman Act, 15 U.S.C. § 1, as alleged in the First  
9 Claim for Relief;

10 (b) A violation of the Indirect Purchaser States' antitrust laws as alleged in the  
11 Second Claim for Relief; and

12 (c) Acts of unjust enrichment as set forth in the Third Claim for Relief herein.

13 C. That Plaintiffs and the Indirect Purchaser State Classes recover damages, as  
14 provided by the Indirect Purchaser States' antitrust and unfair competition laws, and that a joint  
15 and several judgment in favor of Plaintiffs and the Classes be entered against Defendants in an  
16 amount to be trebled in accordance with such laws;

17 D. That Defendants, their co-conspirators, successors, transferees, assigns, parents,  
18 subsidiaries, affiliates, and the officers, directors, partners, agents, and employees thereof, and all  
19 other persons acting or claiming to act on behalf of Defendants, or in concert with them, be  
20 permanently enjoined and restrained from, in any manner, directly or indirectly, continuing,  
21 maintaining or renewing the combinations, conspiracy, agreement, understanding or concert of  
22 action, or adopting or following any practice, plan, program or design having a similar purpose  
23 or effect in restraining competition;

24 E. That Plaintiffs and the Classes be awarded restitution, including disgorgement of  
25 profits obtained by Defendants as a result of their acts of unfair competition and acts of unjust  
26 enrichment;

1 F. That the Court award Plaintiffs and the Classes they represent pre-judgment and  
2 post-judgment interest as permitted by law;

3 G. That Plaintiffs and the members of the Classes recover their costs of suit,  
4 including reasonable attorneys' fees as provided by law; and

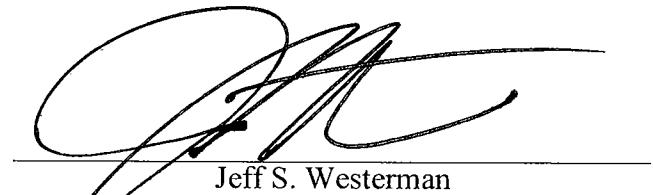
5 H. That the Court award Plaintiffs and the Classes they represent such other and  
6 further relief as may be necessary and appropriate.

7 **XV. JURY TRIAL DEMANDED**

8 Plaintiffs demand a trial by jury of all of the claims asserted in this Complaint so triable.

9 DATED: July 21, 2008

10 MILBERG LLP  
11 JEFF S. WESTERMAN



12 Jeff S. Westerman

13 One California Plaza  
14 300 South Grand Avenue, Suite 3900  
15 Los Angeles, CA 90071  
16 Telephone: (213) 617-1200  
Facsimile: (213) 617-1975  
Email: jwesterman@milberg.com

17 MILBERG LLP  
18 PETER SAFIRSTEIN (*pro hac vice* admission to  
be submitted)  
19 ANDREW MORGANTI (*pro hac vice* admission  
to be submitted)  
One Pennsylvania Plaza  
20 New York, NY 10119  
Telephone: (212) 594-5300  
Facsimile: (212) 868-1229  
Email: psafirstein@milberg.com  
amorganti@milberg.com

1 ADEMI & O'REILLY, LLP  
2 Guri Ademi (*pro hac vice* admission to be  
3 submitted)  
Shpetim Ademi (*pro hac vice* admission to be  
submitted)  
4 3620 Layton Avenue  
Cudahay, WI 53100  
Telephone: (414) 482-8000  
Facsimile: (414) 482-8001  
Email: gademi@ademilaw.com  
sademi@ademilaw.com

7 *Counsel for Plaintiffs and the Proposed Indirect  
Purchaser Class*  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28